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2 **IN THE UNITED STATES DISTRICT COURT**  
3 **FOR THE SOUTHERN DISTRICT OF TEXAS**

4 **TANDRA BELLAMY,** §  
5 Plaintiff, § **Civil Action No.**  
6 v. §  
7 § **Jury Trial Demanded**  
8 **MIRAND RESPONSE SYSTEMS,** §  
9 **INC.,** §  
10 Defendant. §

11 **COMPLAINT**

12 TANDRA BELLAMY (“Plaintiff”), by her attorneys, KIMMEL &  
13 SILVERMAN, P.C., alleges the following against MIRAND RESPONSE  
14 SYSTEMNS, INC. (“Defendant”):  
15

16 **INTRODUCTION**

17 1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices  
18 Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”) and the Texas Debt Collections  
19 Practices Act, Tex. Fin. Code Ann. § 392.301 *et seq.* (“TFDCPA”).  
20

21 **JURISDICTION AND VENUE**

22 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),  
23 which states that such actions may be brought and heard before “any appropriate  
24 United States district court without regard to the amount in controversy;” 28  
25

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising  
2 under the laws of the United States..

3 3. Venue is proper pursuant to 28 U.S.C. § 1391 (b)(1).  
4

5 **PARTIES**

6 4. Plaintiff is a natural person residing in Houston, Texas 77304.

7 5. Plaintiff is a “consumer” as that term is defined by 15 U.S.C.  
8 §1692a(3) and Tex. Fin. Code Ann. § 392.001(1).  
9

10 6. Defendant is a debt collection company with corporate offices located  
11 at 16211 Park Ten Place, Houston, Texas 77084.

12 7. Defendant is a “debt collector” as that term is defined by 15 U.S.C.  
13 §1692 a(6) and Tex. Fin. Code Ann. § 392.001(6), and sought to collect a debt  
14 from Plaintiff  
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16 8. At all relevant times, Defendant acted as a “debt collector” within the  
17 meaning of 15 U.S.C. § 1692(a)(6) and Tex. Fin. Code Ann. § 392.001(6), and  
18 attempted to collect a “debt” as defined by 15 U.S.C. § 1692(a)(5) and Tex. Fin.  
19 Code Ann. § 392.001(2).  
20

21 9. Defendant acted through its agents, employees, officers, members,  
22 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
23 representatives, and insurers.  
24  
25

## FACTUAL ALLEGATIONS

10. At all relevant times, Defendant attempted to collect a consumer debt and contacted Plaintiff in its attempts to collect that debt.

11. Beginning in or around June 2016 and continuing into October 2016, Defendant placed repeated harassing telephone calls to Plaintiff's cellular telephone.

12. Defendant has been contacting Plaintiff regarding an alleged Wood Forest Bank credit card debt that was incurred primarily for personal, family or household purposes.

13. Plaintiff received collection calls from telephone numbers including, but not limited to: (346) 980-4088. The undersigned has confirmed the number as belonging to Defendant.

14. Shortly after calls began, within a few weeks, Plaintiff told Defendant that she could not afford to pay the alleged debt and to stop calling.

15. Defendant heard and acknowledged Plaintiff's request.

16. Once Defendant was informed that its calls were unwanted and to stop calling, there was no lawful purpose to placing further calls to her.

17. Further, once Defendant knew the calls were unwanted, any further calls could only have been placed for the purpose of harassment.

18. However, Defendant failed to restrict calls to Plaintiff's cellular

1 telephone and continued to call.

2 19. Plaintiff received calls at inconvenient times including during work  
3 hours, even though she told Defendant to stop calling.  
4

5 20. Frustrated, annoyed, and feeling harassed, Plaintiff told Defendant to  
6 stop calling a second time in or around July or August 2016.

7 21. The Defendant still kept calling into October 2016.

8 22. After Plaintiff's requests to stop the calls were ignored by Defendant,  
9 she had no other option but to use a blocking application on her cellular telephone  
10 to block calls from their phone number.  
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12 23. Defendant's actions as described herein were taken with the intent to  
13 harass, upset and coerce payment from Plaintiff.  
14

15  
16 **COUNT I**  
17 **DEFENDANT VIOLATED §§1692d and 1692d(5) OF THE FDCPA**

18 24. Section 1692d of the FDCPA prohibits debt collectors from engaging  
19 in any conduct the natural consequence of which is to harass, oppress, or abuse  
20 any person in connection with the collection of a debt.  
21

22 25. Section 1692d(5) of the FDCPA prohibits debt collectors from  
23 causing the telephone to ring or engaging any person in telephone conversation  
24 repeatedly with intent to annoy, abuse or harass.  
25

26. Defendant violated §§1692d and d(5) when it called Plaintiff

1 repeatedly and continued to call after she had requested the calls cease and caused  
2 Plaintiff's telephone to ring repeatedly.

3  
4  
5 **COUNT II**  
6 **DEFENDANT VIOLATED § 392.302(4) OF THE TFDCPA**

7 36. A debt collector violates § 392.302(4) of the TFDCPA by causing a  
8 telephone to ring repeatedly or continuously, or making repeated or continuous  
9 telephone calls, with the intent to harass a person at the called number.

10  
11 37. Defendant violated § 392.302(4) of the Texas FDCPA by causing  
12 Plaintiff's cellular telephone to ring repeatedly or continuously with the intent of  
13 annoying and harassing the person at the called number, as it called Plaintiff  
14 multiple times per day or every other day despite numerous requests to stop  
15 calling.

16  
17 **COUNT III**  
18 **DEFENDANT VIOLATED §§1692c(a)(1)**

19 38. Section 1692c(a)(1) of the FDCPA prohibits debt collectors from  
20 without prior consent communicating with a consumer at any unusual time or  
21 place known or which should be known to be inconvenient to the consumer.

22  
23 39. Defendant violated §1692c(a)(1) when it placed calls to Plaintiff  
24 during work hours after she told Defendant that their calls were inconvenient and  
25 to stop calling.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, TANDRA BELLAMY, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for each Plaintiff for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3) and Tex. Fin. Code § 392.403(b);
- d. Any other relief deemed appropriate by this Honorable Court.

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, TANDRA BELLAMY, demands a jury trial in this case.

DATED: December 16, 2016      KIMMEL & SILVERMAN, P.C.  
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